

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Modesto, California

September 5, 2013 at 2:30 p.m.

1. [11-93411](#)-E-11 SANJIV/SHEENA CHOPRA
RMY-21

PRE-EVIDENTIARY HEARING
CONFERENCE RE: OBJECTION TO
CLAIM OF NAGRA, LLC, CLAIM
NUMBER 356-2
10-9-12 [[314](#)]

Debtors' Atty: Robert M. Yaspan
Creditor's Atty: Richard H. Gibson

Notes:

Set by order dated 3/11/13 [Dckt 593]

Scheduling Order -

Close of non-expert witness discovery 6/4/13

Disclose expert witnesses and exchange reports 6/4/13

Close of expert witness discovery 8/5/13

Debtors' Pretrial Conference Statement filed 8/26/13 [Dckt 731]

Final Ruling: The Pre-Evidentiary Hearing Conference is continued to 2:30 p.m. on September 26, 2013. No appearance at the September 5, 2013 Pre-Evidentiary Hearing Conference is required.

On August 6, 2013, the parties filed a stipulation requesting that the Pre-Evidentiary Hearing Conference be continued to the next available regular hearing date to allow counsel and the parties to observe a religious holiday. The request of the parties is reasonable and does not improperly or unduly impair these proceedings.

September 5, 2013 at 2:30 p.m.

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2. [11-93411](#)-E-11 SANJIV/SHEENA CHOPRA
[13-9003](#)
CHOPRA ET AL V. NAGRA, LLC

PRE-TRIAL CONFERENCE RE:
COMPLAINT TO AVOID AND RECOVER
FRAUDULENT TRANSFERS; AND FOR
DECLARATORY RELIEF
1-7-13 [[1](#)]

Plaintiff's Atty: Debra Brand
Defendant's Atty: Richard H. Gibson

Adv. Filed: 1/7/13
Answer: 2/8/13

Nature of Action:
Recovery of money/property - other
Declaratory judgment

Final Ruling: The Pretrial Conference is continued to 2:30 p.m. on September 26, 2013. No appearance at the September 5, 2013 Pre-Trial Conference is required.

On August 28, 2013, the parties filed a stipulation requesting that the Pre-Trial Conference be continued to the next available regular hearing date to allow counsel and the parties to observe a religious holiday. The request of the parties is reasonable and does not improperly or unduly impair these proceedings.

Notes:

3/11/13 Scheduling Order -
Initial Disclosures by 3/29/13
Close of non-expert witness discovery 6/4/13
Disclose expert witnesses and exchange reports by 6/4/13
Close of expert witness discovery 8/5/13

Pretrial Statement of Debtors and Plaintiffs filed 8/26/13 [Dckt 15]

Stipulation to Continue Pretrial Conference filed 8/28/13 [Dckt 17]; order pending

3. [12-93136-E-7](#) [13-9008](#) **MARIA ALCANTAR**
ALCANTAR V. RT FINANCIAL, INC.
ET AL

CONTINUED STATUS CONFERENCE RE:
AMENDED COMPLAINT
3-28-13 [[17](#)]

Plaintiff's Atty: Brian S. Haddix
Defendant's Atty: Michael S. Warda

Adv. Filed: 3/5/13
Amd Cmplt Filed: 3/6/13
Second Amd Cmplt Filed: 3/28/13

Answer: none
Amd Cmplt Answer: 5/6/13

Nature of Action:
Recovery of money/property - other
Injunctive relief - other
Other (e.g. other actions that would have been brought in state court if
unrelated to bankruptcy case)
Notes:

Continued from 6/27/13. Defendants to serve and file an amended answer on
or before 7/26/13 if the parties have not resolved this Adversary
Proceeding. Amended answer not filed as of 8/30/13.

STATUS CONFERENCE - SEPTEMBER 5, 2013

The court continued the Status Conference to September 5, 2013, to
allow the parties to address settlement of this Adversary Proceeding and
identify what issues, if any, must be addressed.

If the matter was not settled, the Defendant was ordered to file and
serve an amended answer on or before July 26, 2013. No amended answer has
been filed.

SUMMARY OF FIRST AMENDED COMPLAINT - Dckt. 17

The First Amended Complaint (FAC) alleges that on December 13, 2012,
the Plaintiff-Debtor commenced a voluntary Chapter 7 bankruptcy case. On
December 17, 2012, IndyMac Bank, through MTC Financial, Inc., dba Trustee
Corps, a trustee under a deed of trust, conducted a non-judicial foreclosure
sale of the Plaintiff-Debtor's real property. On December 26, 2012, Patriot
Legal Document Services, LLC, served a Three Day Notice to Quit Possession
of the Property. After the Three Day Notice had been served, Patriot Legal
Document Services, LLC, communicated with the Plaintiff-Debtor's bankruptcy
counsel, who advised Patriot of the December 13, 2012 bankruptcy filing.

It is further alleged that on December 27, 2012, RT Financial, Inc,
the successful bidder at the non-judicial foreclosure sale recorded the
trustee's deed. On January 7, 2012, RT Financial executed a deed

transferring the Property to Angilbert Sarkis, which was recorded with the County Recorder on January 8, 2013.

On January 15, 2013, Patriot Legal Document Services, LLC served the Plaintiff-Debtor with a second Three Day Notice. The Plaintiff-Debtor's counsel had a staff member contact Angilbert Sarkis to notify him of the automatic stay. Mr. Sarkis notified the staff member that he would have to call the staff member back. The return call was made by Roni Roberts, or RT Financial, who "began screaming forcing [the staff member] to disconnect the call."

On January 16, 2013, counsel for Plaintiff-Debtor contacted Ben Roberts at RT Financial. Roni Roberts, or RT Financial came on the phone, and began screaming at Plaintiff-Debtor's attorney, stating "that he would not stop harassing the Plaintiff-Debtor."

On January 17, 2013, MTC Financial, Inc. Dba Trustee Corps filed a "Rescission of Trustee's Deed upon Sale" with the County Recorder. On February 4, 2013, Plaintiff-Debtor demanded that by February 11, 2013, RT Financial, Inc. and Angilbert Sarkis rescind the deeds recorded on December 26, 2012 and January 8, 2013. As of the filing of the First Amended Complaint no rescissions had been received by the Plaintiff-Debtor.

The following causes of action are expressly stated in the First Amended Complaint:

A. A declaration that the recording of the deeds on December 27, 2012 and January 8, 2013, were done in violation of the automatic stay, are void, and are ordered rescinded.

B. Based on the alleged violation of the automatic stay by RT Financial, Inc., Patriot Legal Document Services, LLC, and Angilbert Sarkis, actual, emotional distress, punitive damages, and attorneys' fees. (11 U.S.C. § 362(k) being the applicable damages provision for violation of the automatic stay.)

C. An injunction against RT Financial, Inc., Patriot Legal Document Services, LLC, and Angilbert Sarkis enjoining from attempting to obtain possession of or control over the Property based on the rescinded December 17, 2012 foreclosure sale.

SUMMARY OF ANSWER - Dckt. 27.

The Answer filed by RT Financial, Inc and Angilbert Sarkis states the following,

"Defendants deny, generally and specifically, each and every, all and singular, conjunctively and disjunctively, the allegations contained in the Complaint and further deny that Plaintiff has been damaged in any amount, or at all, and deny that Plaintiff is entitled to any relief whatsoever, whether equitable, legal or otherwise."

Answer, Dckt. 27. These Defendants also state the affirmative defenses of (1) the Complaint fails to state facts sufficient to constitute a cause of action, (2) that the Complaint is meritless, and (3) that the Complaint is barred by applicable statutes of limitation, including 11 U.S.C. § 546, 547, 548, and 550.

Answers filed in Adversary Proceedings are governed by Federal Rules of Bankruptcy Procedure 7008 and 7012, which provide in pertinent part (emphasis added),

Rule 7008. General Rules of Pleading

(a) Applicability of Rule 8 F.R.Civ.P. Rule 8 F.R.Civ.P. applies in adversary proceedings. The allegation of jurisdiction required by Rule 8(a) shall also contain a reference to the name, number, and chapter of the case under the Code to which the adversary proceeding relates and to the district and division where the case under the Code is pending. In an adversary proceeding before a bankruptcy judge, the complaint, counterclaim, cross-claim, or third-party complaint shall contain a statement that the proceeding is core or non-core and, if non-core, that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy judge.

Federal Rule of Civil Procedure 8 provides in pertinent part (emphasis added),

Rule 8. General Rules of Pleading

(b) Defenses; Admissions and Denials.

(1) In General. In responding to a pleading, a party must:

(A) **state in short and plain terms its defenses to each claim asserted against it;** and

(B) **admit or deny the allegations** asserted against it by an opposing party.

(2) Denials--Responding to the Substance. A **denial must fairly respond to the substance of the allegation.**

(3) General and Specific Denials. A party that **intends in good faith to deny all the allegations of a pleading--including the jurisdictional grounds--may do so by a general denial.** A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.

(4) Denying Part of an Allegation. A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.

(5) Lacking Knowledge or Information. A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

(6) Effect of Failing to Deny. An allegation--other than one relating to the amount of damages--is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

Federal Rule of Bankruptcy Procedure 7012 provides in pertinent part (emphasis added),

Rule 7012. Defenses and Objections--When and How Presented--By Pleading or Motion--Motion for Judgment on the Pleadings

(b) Applicability of Rule 12(b)-(I) F.R.Civ.P. Rule 12(b)-(I) F.R.Civ.P. applies in adversary proceedings. **A responsive pleading shall admit or deny an allegation that the proceeding is core or non-core. If the response is that the proceeding is non-core, it shall include a statement that the party does or does not consent to entry of final orders or judgment by the bankruptcy judge.** In non-core proceedings final orders and judgments shall not be entered on the bankruptcy judge's order except with the express consent of the parties.

As contrasted to California procedure, in federal court a general denial is properly when the defendant can in good faith deny each and every allegation, including the allegation of jurisdiction. See CALIFORNIA PRACTICE GUIDE FEDERAL CIVIL PROCEDURE BEFORE TRIAL, THE RUTTER GROUP 2013, ¶ 8:934 - 8:937; MOORE'S FEDERAL PRACTICE 2013 - CIVIL § 8.06[2], [4]

The general denial filed by Defendants RT Financial, Inc. and Angilbert Sarkis denies all of the allegations in the First Amended Complaint, including the following allegations of jurisdiction and basic facts,

- A. The court has jurisdiction for this Adversary Proceeding (for violation of the automatic stay) pursuant to 28 U.S.C. § 1334. FAC ¶ 1.
- B. The First Amended Complaint is a core matter within the meaning of 28 U.S.C. § 157(b) (1) and (b) (2) (A) and (I). FAC ¶ 3.
- C. The claims for relief are predicated on 11 U.S.C. §§ 362(a) (3) and 541 and Federal Rule of Bankruptcy Procedure 7001.

D. Defendant RT Financial, Inc. is a California corporation with its principal place of business in Stanislaus County, California. FAC ¶ 6.

E. Defendant Angilbert Sarkis is an individual whose principal residence is unknown. FAC ¶ 8.

F. On December 13, 2012, the Plaintiff-Debtor commenced a Chapter 7 bankruptcy case. FAC ¶ 12.

G. On December 17, 2012, IndyMac Bank conducted a non-judicial foreclosure sale of the Property commonly known as 795 Madrid Court, Ceres, California. FAC ¶ 13.

H. RT Financial, Inc. submitted the highest bid at the non-judicial foreclosure sale. FAC ¶ 13.

I. On or about December 27, 2012, RT Financial, Inc. recorded a "Trustee's Deed upon Sale." FAC ¶ 16.

J. The grant deed from RT Financial, Inc. purporting to transfer the Property from RT Financial, Inc. to Angilbert Sarkis was executed on January 7, 2013 by "Roni Roberts-Vice President." FAC ¶ 17.

K. On or about January 15, 2013, Roni Roberts, vice president of RT Financial spoke to Amanda Hartt, a paralegal in the office of Plaintiff-Debtor's attorney. FAC ¶ 19.

L. On or about January 16, 2013, Roni Roberts of RT Financial spoke with the attorney for Plaintiff-Debtor. FAC ¶ 20.

M. On or about February 4, 2013, the Plaintiff-Debtor demanded that RT Financial, Inc. and Angilbert Sarkis rescind the December 26, 2012 and January 8, 2013 deeds. FAC 22.

4. [12-90836-E-7](#) [13-9023](#) **PATRICIA DAY**
FARRAR V. DAY

STATUS CONFERENCE RE: COMPLAINT
6-28-13 [[1](#)]

Plaintiff's Atty: Aaron A. Avery
Defendant's Atty: Pablo A. Tagre

Adv. Filed: 6/28/13
Answer: 7/26/13

Nature of Action:
Objection/revocation of discharge

Notes:

Plaintiff's Status Conference Statement filed 8/27/13 [Dckt 11]

Defendant's Status Conference Statement filed 8/27/13 [Dckt 13]

PLAINTIFF'S STATUS CONFERENCE STATEMENT

The Plaintiff confirms the Rule 26 disclosures made to Defendant and requests that discovery commence in the case.

DEFENDANT-DEBTOR'S STATUS CONFERENCE STATEMENT

The Defendant-Debtor's Status Conference Statement recounts the allegations set forth in the Defendant-Debtor's "answer." It requests that the court deny the relief requested or allow the Defendant-Debtor to now dismiss her bankruptcy case.

SUMMARY OF COMPLAINT

The Complaint filed by the Chapter 7 Trustee seeks to have the court revoke the Defendant-Debtor's discharge. The Trustee was advised by the Defendant-Debtor's former spouse that the Defendant-Debtor had an interest in property located in Alberta, Canada which was not disclosed on the Bankruptcy Schedules.

SUMMARY OF ANSWER

The "answer" filed by the Defendant-Debtor is titled "Declaration of Debtor in Response to Trustee's Revocation of Discharge." Dckt. 8. In it the Defendant-Debtor states that she was placed on title to real property owned by her father in Alberta, Canada. This is asserted to have been done so that the Defendant-Debtor could assist her father with issues relating to the Property.

The Defendant-Debtor's father died shortly before she filed her Chapter 7 bankruptcy case. It is asserted that it was the father's intention that the Alberta, Canada property be shared between the Defendant-Debtor and her four siblings. The father passes away without a will or

making provision for the transfer of this property. The Defendant-Debtor has provided the court with copies of declarations dated May 23, 2013, from the four siblings stating that they agree that each sibling has a 20% interest in the Alberta, Canada Property.

The Defendant-Debtor asserts that she has been the victim of physical and psychological abuse by her ex-husband. Further, it was her ex-husband who demanded that the Defendant-Debtor file bankruptcy. She asserts that she was forced into filing bankruptcy through the abuse of her ex-husband.

Federal Rule of Bankruptcy Procedure 7012(b) provides,

(b) Applicability of Rule 12(b)-(I) F. R.Civ.P. Rule 12(b)-(I) F.R.Civ.P. applies in adversary proceedings. A responsive pleading shall admit or deny an allegation that the proceeding is core or non-core. If the response is that the proceeding is non-core, it shall include a statement that the party does or does not consent to entry of final orders or judgment by the bankruptcy judge. In non-core proceedings final orders and judgments shall not be entered on the bankruptcy judge's order except with the express consent of the parties.

This "answer" fails to admit and deny the specific allegations in the Complaint, though it provides an explanation as to what occurred.

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b) (2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b) (2) (A) and (J). Complaint ¶¶ 4, 6, Dckt. 1.

Patricia Day, the Defendant-Debtor, filed an "answer" on July 26, 2013. Dckt. 8. Though the answer lists Pablo A. Tagre, of the Tagre Law Office, as counsel for the Defendant-Debtor, counsel did not sign the "answer" - the Defendant-Debtor did so as if she was unrepresented by counsel. The pleading which the court construes to be the "answer" is titled "Declaration of Debtor in Response to Trustee's Revocation of Discharge. The "answer" does not admit or deny the specific allegations in the Complaint, but provides the Defendant-Debtor's rendition of the facts underlying the Complaint.

This Complaint for Revocation of Discharge is a matter arising under the Bankruptcy Code, 11 U.S.C. § 727(d). This is a core proceedings for which the bankruptcy judge issues all orders and the judgment. Jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(a), and the referral of bankruptcy cases and all related matters to the bankruptcy judges in this District. ED Cal. Gen Order 182, 223. This Adversary Proceeding is a core matter arising under the Bankruptcy Code. 28 U.S.C. § 157(b) (2) (A) and (J). The federal court has

exclusive jurisdiction over all property of the estate. 28 U.S.C. § 1334(d) (1).

The court shall issue a Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. This Complaint for Revocation of Discharge is a matter arising under the Bankruptcy Code, 11 U.S.C. § 727(d). This is a core proceedings for which the bankruptcy judge issues all orders and the judgment. Jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(a), and the referral of bankruptcy cases and all related matters to the bankruptcy judges in this District. ED Cal. Gen Order 182, 223. This Adversary Proceeding is a core matter arising under the Bankruptcy Code. 28 U.S.C. § 157(b) (2) (A) and (J). The federal court has exclusive jurisdiction over all property of the estate. 28 U.S.C. § 1334(d) (1).
- b. Initial Disclosures shall be made on or before -----, 2013.
- c. Expert Witnesses shall be disclosed on or before -----, 2013, and Expert Witness Reports, if any, shall be exchanged on or before -----, 2013.
- d. Discovery closes, including the hearing of all discovery motions, on -----, 2013.
- e. Dispositive Motions shall be heard before -----, 2013.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- p.m. on -----, 2013.

5. [12-90875](#)-E-7 ROBERT THOMPSON
[13-9024](#)
U.S. TRUSTEE V. THOMPSON

STATUS CONFERENCE RE: COMPLAINT
7-8-13 [[1](#)]

**THIS IS ISSUED AS A TENTATIVE RULING TO AFFORD THE
PARTIES TO ADDRESS ANY ISSUE AS TO WHY THIS ADVERSARY
PROCEEDING FILE SHOULD NOT BE CLOSED BY THE CLERK OF THE COURT**

**IF NO OBJECTION TO CLOSING THE FILE EXISTS,
APPEARANCES ARE REQUIRED FOR THE
SEPTEMBER 5, 2013 STATUS CONFERENCE**

Plaintiff's Atty: Edmund Gee
Defendant's Atty: unknown

Adv. Filed: 7/8/13
Answer: none

Nature of Action:
Objection/revocation of discharge

Tentative Ruling: The court filed an order waiving the Defendant-Debtor's discharge in bankruptcy case No. 12-90875. Dckt. 15. This order was entered pursuant to the stipulation of the parties. This fully resolves the Adversary Proceeding and the file may now be closed by the Clerk of the Court.

Notes:

Stipulation and Waiver of Discharge filed 8/12/13 [Dckt 12]

Plaintiff's Ex Parte Application for Entry of Consent of Order re:
Stipulation and Waiver of Discharge filed 8/12/13 [Dckt 13]

Consent Order Approving Stipulation and Waiver of Discharge filed 8/14/13
[Dckt 15]

6. [11-44878-E-7](#) VLADIMIR/SNEZHANNA
[12-2573](#) SEMCHENKO UST-7
U.S. TRUSTEE V. BRYANT

MOTION FOR PROTECTIVE ORDER
8-27-13 [[188](#)]

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Defendant (*pro se*) on August 27, 2013. By the court's calculation, 9 days' notice was provided.

Tentative Ruling: The Motion for Protective Order was set for hearing from October 3, 2013 to September 5, 2013, at the hearing on the Defendant's Motion for Protective Order (DCN DLB-13) by the agreement of the parties on the record. The court issued an Order Setting Hearing to reduce to a writing the agreement on the record to move the hearing. Defendant agreed to file his opposition on September 3, 2013.

The court's tentative decision is to grant the Motion for Protective Order and limit the scope of the deposition on the United States Trustee. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

Plaintiff United States Trustee ("UST") seeks a protective order from Defendant David Bryant's ("Defendant") two (2) subpoenas for testimony and documents to be obtained from UST personnel. These two subpoenas are identical except one says "TO: Person most knowledgeable" and the other says "TO: Custodian of Records." UST argues that Defendant is seeking testimony from UST counsel (Allen Massey) and cannot make the required showing of necessity to do so. UST also argues that Defendant has not provided the discovery requested by the UST or attend his deposition.

At issue before the court is whether the most knowable person and the custodian of records shall be required to appear for depositions.

DEFENDANT'S OPPOSITION

Defendant argues that the UST has responded with non-responsive, evasive, or incomplete answers. Defendant states UST has failed to produce documents from the Sheriff's Office, District Attorney's Office, State Bar or any documents from the 100 plus names on the witness list. Defendant states the response includes copies of pleadings and duplicate copies of emails between the UST and others.

Additionally, Defendant argues that the UST has not shown good cause for a protective order. Defendant states that he is entitled to examine the character demeanor and kind of witness the other party will make and that a deposition is the only opportunity a party has to determine such matters.

Defendant argues that the UST is required to disclose all damaging documents and evidence to be used against a defendant to prosecute this action because it is a "quasi-criminal" proceeding in nature.

Defendant also argues that he has not noticed the deposition on the attorney for the UST, but the person most knowledgeable, and he is not seeking any attorney client communication or work product privilege.

DISCUSSION

ISSUES IN ADVERSARY PROCEEDING

The present Motion and Opposition must be considered in light of the actual Complaint and issues before the court. The Complaint filed by the UST asserts the following in support of the specific relief requested. Fed. R. Civ. P. 7(a), Fed. R. Bankr. 7007. The Complaint, Dckt. 1, asserts,

- A. Defendant is a bankruptcy petition preparer as defined under 11 U.S.C. § 110.
- B. Defendant is not licensed to practice law in any state.
- C. Defendant has admitted at times that he is not an attorney, qualifying the statement by stating that his is not a California attorney.
- D. Defendant is identified as "David Leigh Bryant Esq" in Rancho Cordova on several websites.
- E. The caller ID for Defendant's phone number, (916) 353-1228, is "law office."
- F. Defendant advertises as "My Home Law at www.myhomelaw.com."
- G. On the "about page" for www.myhomelaw.com it is stated "My Home Law helps you save your home. We can be reached at (916) 353-1228.
- H. Defendant has asserted that his is doing business under Winchester Consultants, LLC. Defendant has a interest in Winchester Consultants, LLC.
- I. Defendant has employed salaried employees who responded to his advertisements on Craig's List.
- J. Defendant has prepared or caused to be prepared documents in the current bankruptcy case for Snezhanna Semchenko, Ms. Semchenko's prior bankruptcy cases, and other bankruptcy cases filed in the Eastern District of California.
- K. Defendant has received monies from individuals for whom Defendant has prepared or caused to be prepared bankruptcy documents for filing.
- L. Defendant's primary purpose for preparing or causing to be prepared bankruptcy documents for filing has been to delay foreclosures or evictions.

M. In the current case for Ms. Semchenko and her prior cases, no person is identified as a petition preparer of the documents in those cases.

N. In the current case for Ms. Semchenko and her prior cases, no person is identified as attorney for any of the documents in those cases.

O. No person is identified as a petition preparer for any of the documents that Defendant prepared or caused to be prepared in any bankruptcy cases.

P. With a "few exceptions," no person is identified as the attorney on any of the documents prepared or caused to be prepared by the Defendant in any bankruptcy case after January 1, 2011.

Q. With "few exceptions," all of the bankruptcy cases for which the Defendant prepared or cause to be prepared documents for filing have been dismissed for the failure to file all required documents.

R. It is asserted that the Defendant has violated the provisions of 11 U.S.C. § 110(b)(1), (b)(2), (c)(1), (e)(2)(A), and (h)(2) for the documents filed in Ms. Semchenko's cases and other bankruptcy cases.

S. Defendant has not complied with the Guidelines Pertaining to Bankruptcy Petition Preparers in the Eastern District of California.

T. First Claim for Relief - Injunction pursuant to 11 U.S.C. § 110(j).

1. Enjoin Defendant from preparing any bankruptcy document for filing, whether for compensation or no compensation.
2. Defendant may file documents for himself in any case or proceeding in which he is a real party in interest or named party.

PROTECTIVE ORDER ISSUED IN BANKRUPTCY CONTESTED MATTER

In addition to this Adversary Proceeding the UST has a Contested Matter being actively prosecuted in the Semchenko bankruptcy case, No. 11-4487, DCN: UST-1. In that Motion the UST seeks to have the court order disgorgement of \$58,500 in fines, \$5,000.00 to the bankruptcy trustee as a forfeiture of fees, and \$34,576 to the Debtor for damages. This Contested Matter is set for a September 23, 2013 Evidentiary Hearing. The court authorized and another bankruptcy judge conducted a judicially supervised mediation to resolve the Contested Matter. No resolution was reached by the Parties for the Contested Matter or any facts or issues to be determined in the Contested Matter.

In that Contested Matter the UST sought a protective order from the discovery being conducted by the Defendant. 11-44878 Dckt. 195. Many of the items which were the subject of the protective order sought for that

discovery is the same as sought in the current discovery (including information about law enforcement authorities and the State Bar). The court issued a protective order requiring the UST to respond to the following questions,

1. DESCRIBE how either or both Vladimir and/or Snezhanna Semchenko was damaged, and the amount of any such damages, by the alleged conduct of David L. Bryant.
2. DESCRIBE how the conduct of David L. Bryant was the cause of any alleged damages.
3. Alleged Fact #1:
 - a. Please IDENTIFY and DESCRIBE (by name and address) the "acquaintance" who suggested Mr. Semchenko "contact" David L. Bryant.
 - b. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of alleged Fact #1.
4. Alleged Fact #2:
 - a. Please IDENTIFY, DESCRIBE and explain when, where, and in what manner David L. Bryant allegedly "cultivates the allusion that he is" an attorney.
 - b. If YOU contend that Mr. Semchenko or any PERSON, at ANY time, to have seen any state bar license(s) or court issued certificate(s) hung upon the walls or in any other visible place of business bearing the name of David L. Bryant, then IDENTIFY ALL witnesses and PERSONS that support that contention.
5. Alleged Fact #3:
 - a. Please IDENTIFY and DESCRIBE each and every person (by name and address) that was present when Mr. Bryant allegedly "...said he could keep Debtors in their home for one-and-one-half to two-years."
 - b. Please IDENTIFY and DESCRIBE each and every person (by name and address) that was present with Mr. Semchenko provided the "papers" to Mr. Bryant.
 - c. Did Mr. Semchenko ever COMMUNICATE to YOU, or to YOUR knowledge ANY other PERSON in the United States Trustee's Office, or other witness, known or unknown, as to what Mr. Semchenko's intention was in seeking the employ of David L. Bryant in any matter.

- d. Did Mr. Semchenko ever COMMUNICATE to YOU, or to YOUR knowledge ANY other PERSON in the United States Trustee's Office, or other witness, known or unknown, whether he sought the advice of legal counsel, other than the claim against David L. Bryant, in regards to filing his bankruptcy.
- e. Did Mr. Semchenko ever COMMUNICATE to YOU, or to YOUR knowledge ANY other PERSON in the United States Trustee's Office, or other witness, known or unknown, whether he sought the advice of legal counsel in regards to avoiding the mortgagee's foreclosure of his real property.
- f. Please IDENTIFY and DESCRIBE all facts, INFORMATION, CORRESPONDENCE and COMMUNICATIONS from David L. Bryant to Mr. Semchenko explaining how David L. Bryant was allegedly to "keep Debtors in their home."
- g. Please IDENTIFY and DESCRIBE each and every person (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of, alleged Fact #3.
- 6. Alleged Fact #4:
 - a. Please IDENTIFY and DESCRIBE each and every service that was to be provided by David L. Bryant for which Mr. Semchenko was to tender the alleged payment of \$9,500.
 - b. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of what services were to be rendered in consideration for the alleged \$9,500 fee.
- 7. Alleged Fact # 5:
 - a. Please IDENTIFY, DESCRIBE and explain each and every statement Mr. Semchenko provided to you surrounding the alleged statement provided to you surrounding the alleged statement by Mr. Bryant to Mr. Semchenko that a "bankruptcy had to be filed in his wife's name."
 - b. Please IDENTIFY and DESCRIBE each and every witness (by name and address) that has ANY knowledge of the facts, or other INFORMATION used as the basis of, or in support of, alleged Fact #5.
- 8. Alleged Fact #6:

- a. Please IDENTIFY and DESCRIBE "Mr. Bryant's [alleged] employee" who "point[ed] out where in the Clerk's office" Mr. Semchenko was to file the bankruptcy DOCUMENTS.
- b. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of alleged Fact #6.
- 9. Alleged Fact #7:
 - a. If YOU contend that Mr. Bryant authorized an alleged employee provide legal advice to Mr. Semchenko regarding the filing of "new bankruptcy papers," then IDENTIFY ALL facts that support that contention.
 - b. If YOU contend that Mr. Brant authorized an [alleged] employee to legally advise Mr. Semchenko regarding the filing of "new bankruptcy papers," then IDENTIFY ALL witnesses and PERSONS that support that contention.
 - c. Please IDENTIFY and DESCRIBE the [alleged] employee of Mr. Bryant who allegedly called Mr. Semchenko "to say new bankruptcy papers for his wife had to be filed because, otherwise, Debtors might be kicked out of their home the next morning.
 - d. Please IDENTIFY and DESCRIBE the [alleged] employee of Mr. Bryant who allegedly met Mr. Semchenko in the IKEA Home Depot parking lot in West Sacramento to hand him bankruptcy DOCUMENTS with instructions on where his wife was to sign.
 - e. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of, alleged Fact #7.
- 10. Alleged Fact # 9:
 - a. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of alleged Fact #9.
- 11. Alleged Fact #10:
 - a. Please IDENTIFY and DESCRIBE (by name and address) who "summoned" Mr. Semchenko to the "House/Office."

- b. Please IDENTIFY and DESCRIBE what Mr. Semchenko stated to YOU was the purpose was for which the alleged inquiry was made into what credit cards the Debtors owed.
 - c. Please IDENTIFY and DESCRIBE for what purpose and for what reason the Debtors were told they both needed to file bankruptcy papers.
 - d. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of alleged Fact #10.
12. Alleged Fact #11:
- a. Please IDENTIFY and DESCRIBE (by name and address) Mr. Bryant's [alleged] employee who allegedly met Mr. Semchenko at the Pannera Bread parking lot at Greenback Lane and Sunrise Blvd. to deliver bankruptcy DOCUMENTS to Mr. Semchenko
 - b. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of alleged Fact #11.
13. Alleged Fact #12:
- a. If YOUR contention is that Mr. Semchenko only filed "this third set of bankruptcy documents" at the advice of David L. Bryant, then IDENTIFY ALL facts that support that contention.
 - b. If YOUR contention is that Mr. Semchenko only filed "this third set of bankruptcy documents" at the advice of David L. Bryant, then IDENTIFY ALL witnesses and PERSONS who support that contention.
14. Alleged Fact #14:
- a. If YOUR contention is that Mr. Semchenko only filed "this fourth set of bankruptcy documents" at the advice of David L. Bryant, then IDENTIFY ALL facts that support that contention.
 - b. If YOUR contention is that Mr. Semchenko only filed "this fourth set of bankruptcy documents" at the advice of David L. Bryant, then IDENTIFY ALL witnesses and PERSONS who support that contention.
15. Alleged Fact #15:

- a. Please IDENTIFY and DESCRIBE the given reason for which Mr. David L. Bryant allegedly stated to Mr. Semchenko to "listen to other debtors there and answer questions similarly."
 - b. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who overheard Mr. Bryant make the alleged statement to Mr. Semchenko to "listen to other debtors there and answer questions similarly."
16. Alleged Fact #16:
- a. Please IDENTIFY and DESCRIBE (by name and address) ANY witness(es) who overheard Mr. Bryant making the alleged statement to Mr. Semchenko "that the date could be reset and that Mr. Semchenko should go early to the hearing (and) ask the trustee for a new date."
17. Alleged Fact #17:
- a. Please IDENTIFY and DESCRIBE the [alleged] employee of Mr. Bryant who allegedly "added Kelly Blue Book values to Schedule B and changed the Schedule C exemptions form CCP 704 to CCP 703.
 - b. Please IDENTIFY and DESCRIBE who (by name and address) gave the reason whereupon these additions and changes should be made.
 - c. Please IDENTIFY and DESCRIBE who (by name and address) made the additions and changes as alleged in Fact #17.
 - d. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has information based on personal knowledge, regarding the additions and changes alleged in Fact #17.
18. Alleged Fact #19:
- a. Does Mr. Semchenko contend that he had no knowledge that the fees he paid would be used for, among other things, to pay an attorney for legal advice, services, representations, and the associated litigation fees in matters relating to his bankruptcy petition?
 - b. Does Mr. Semchenko contend that he had no knowledge that the fees he paid would be used for, among other things, to pay an attorney for legal advice, services, representations, and the associated litigation fees in ANY other matter?

- c. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of alleged Fact #19.
19. Alleged Fact #20:
- a. If YOUR contention is that Mr. Semchenko was, at all times before December 27, 2011, operating under the belief that David L. Bryant was an attorney, or an attorney licensed to practice in California, then IDENTIFY ALL facts in support of that contention.
 - b. If YOUR contention is that Mr. Semchenko was, at all times before December 27, 2011, operating under the belief that David L. Bryant was an attorney, or an attorney licensed to practice in California, please IDENTIFY ALL witness and PERSONS (by name and address) in support of that contention.
20. Alleged Fact #21:
- a. Does Mr. Semchenko deny being apprised of the risks and consequences of filing a petition for Chapter 7 bankruptcy?
 - b. Does Mr. Semchenko allege that he was operating under the belief that he would be able to withhold undisclosed assets from his creditors after filing a Chapter 7 bankruptcy?
 - c. Does Mr. Semchenko deny he was ever apprised of the risks and consequences associated with filing a Chapter 7 bankruptcy by an attorney provided by David Bryant?
21. Alleged Fact #22:
- a. Is it YOUR contention that if an attorney staff member provided legal advice to Mr. Semchenko, that David L. Bryant personally provided the same?
 - b. Does Mr. Semchenko contend that David L. Bryant, at ANY time, and in ANY Matter, provided INFORMATION constituting legal advice?
 - c. Please IDENTIFY and DESCRIBE where and when the specific COMMUNICATION and/or CORRESPONDENCE occurred whereby David L. Bryant provided legal advice to Mr. Semchenko.
 - d. Please IDENTIFY and DESCRIBE where and when the specific COMMUNICATION and/or CORRESPONDENCE occurred whereby a member of David L. Bryant's

alleged staff, his agent or employee, provided legal advice to Mr. Semchenko.

- e. Please IDENTIFY and DESCRIBE what encompasses "all decisions" as alleged in Fact 22, which were allegedly made by David L. Bryant, or his alleged staff, "about what was to be included in the bankruptcy documents, including the selection of bankruptcy chapters and the selection of exemptions of Schedule C.
- f. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of alleged Fact #22.

22. Alleged Fact #24:

- a. Please IDENTIFY and DESCRIBE (by name and address) the alleged employees who allegedly "remove(d) David L. Bryant's name from ANY Semchenko DOCUMENT, and did not place it anywhere else."
- b. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of alleged Fact #24.

23. Alleged Fact #25:

- a. Do YOU contend that David L. Bryant is a Non-Attorney Bankruptcy Petition Preparer in the case In re: Validmir V. and Snezhanna Semchenko or the Prior Cases?
- b. If YOU contend that David L. Bryant is a Non-Attorney Bankruptcy Petition Preparer in the case In re: Validmir V. and Snezhanna Semchenko or the Prior Cases, IDENTIFY ALL facts which support that contention.
- c. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of the contention that David L. Bryant is a Non-Attorney Bankruptcy Petition Preparer in the case In re: Validmir V. and Snezhanna Semchenko or the Prior Cases.

24. Alleged Fact #26:

- a. Is it YOUR contention that the \$5,000 in alleged fees paid by Mr. Semchenko to David L. Bryant were limited solely to bankruptcy services.

- b. Please IDENTIFY ALL facts upon which you base a contention that the \$5,000 in alleged fees paid by Mr. Semchenko to David L. Bryant were limited solely to bankruptcy services.
 - c. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who have personal knowledge of and support of the contention that the \$5,000 in alleged fees paid by Mr. Semchenko to David L. Bryant were limited solely to bankruptcy services.
25. Alleged Fact #28:
- a. If YOU contend that David L. Bryant in allegedly "effect[ing] the preparation of well over one hundred bankruptcy documents to be filed by other individuals," that he has "charged \$95,00 from [each of] those individuals for his services, then IDENTIFY each of the cases in which such bankruptcy documents have been filed.
 - b. Please IDENTIFY and DESCRIBE each and every witness (by name and address) who has knowledge of the facts, or other INFORMATION used as the basis of, or in support of the contention that David L. Bryant in allegedly "effect[ing] the preparation of well over one hundred bankruptcy documents to be filed by other individuals," that he has "charged \$95,00 from [each of] those individuals for his services.

Order, 11-44878 Dckt. 230. The court granted the protective order for the UST as to the other discovery requests.

GROUND FOR PROTECTIVE ORDER

Local Bankruptcy Rule 7026-1(d) provides that, unless otherwise ordered by the court, "there shall be no presumptive limitations upon the number of oral or written depositions taken (see Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A))...or upon the number of interrogatories to parties served (see Fed. R. Civ. P. 33(a))."

Local Bankruptcy Rule 7026-1(d) also provides a mechanism for addressing abusive discovery practices: "[i]f any party believes that any such proposed discovery is burdensome, oppressive, or otherwise improper, that party shall have the burden of seeking a protective order against such proposed discovery in accordance with the provisions of Fed. R. Civ. P. 26(c) and, if applicable, Fed. R. Civ. P. 45."

Pursuant to Federal Rule of Civil Procedure 26(c) as incorporated by Federal Rule of Bankruptcy Procedure 7026, a party may move for a protective order and the court "may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense" by specifying the terms for discovery. The motion for a protective

order must certify that the movant has attempted in good faith to confer and resolve the dispute without court action. *Id.*

Here, the UST has satisfied the requirements of Federal Rule of Civil Procedure 26(c) by making a good faith effort to confer with Defendant. UST informed Defendant that his subpoenas did not provide sufficient notice or showing of necessity on July 26, 2013 and in an email from July 29, 2013. After the parties agreed to a continuance, the UST provided a response to the subpoenas on August 23, 2013, even though Defendant failed to provide any response to their requests or appear at his deposition.

A review of the subpoenas (which are identical except for the addressee at the UST office) shows the following documents are requested to be produced by the UST:

1. Any and all documents upon which you rely in support any of the allegations in this adversary proceeding.
2. Any and all documents upon which the U.S. Trustee or any of their representatives rely in support of the allegations in this adversary proceeding.
3. Any and all documents that indicated when U.S. Trustee or any of their representatives received any and all the documents being produced.
4. Any and all documents that you reviewed in preparation for your deposition.
5. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and any personal of the Sacramento County Sheriff's Department, regarding David L Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
6. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and the Sacramento County District Attorney's Office, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
7. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and any United States government agencies, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
8. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and any California State Government Agencies, regarding David L. Bryant and Winchester Consulting, LLC or any party or

organization that have any participation in the referenced proceeding.

9. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and any personnel of the State Bar of California, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
10. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Stacey Powers, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
11. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Alena Tsiberman, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
12. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Tatyana Chernyetsky, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
13. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Julia Young, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.

The UST states that he provided a response to the subpoenas, but does not provide to the court what documents were produced and for which question. However, in response to the documents produced, Defendant states in his email, that there appeared to be "an awful lot of filler e.g. duplicate documents and pleadings," and "there does not appear to be a verification for the production, nor is there any privileged logs, nor does it appear to be any documents received from the California Bar Association and/or other Government agencies set forth in the subpoena's request." Exhibit Page 38-39.

Defendant states in his response that the UST has failed to produce documents from the Sheriff's Office, District Attorney's Office, State bar or any documents from the 100 plus names on the witness list. Defendant states the response includes copies of pleadings and duplicate copies of emails between the UST and others.

THE PENDING ADVERSARY PROCEEDING IS A CIVIL MATTER

The UST has brought this Adversary Proceeding seeking injunctive relief prohibiting the Defendant from providing services as a bankruptcy

petition preparer. Defendant seeks to treat these proceedings as if they were a criminal prosecution. He cites the court to the Sixth Amendment to the United States Constitution, which provides,

Rights of the accused.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Defendant asserts the UST is the government seeking to deprive the defendant of money, freedom and limit his business activities. Defendant cites *Brady v. Maryland*, 373 U.S. 83 (1963), a criminal murder case regarding the suppression of evidence at the trial constituting a denial of due process. However, this adversary proceeding is not a criminal proceeding and does not have anything to do with the suppression of evidence in a criminal murder trial.

The Sixth Amendment Rights do not extend to civil and administrative proceedings. *United States v. Zucker*, 161 U.S. 475 (1896), (Action to recover damages only for violation of the Customs Administrative Action of 1890, even if some aspect may be penal in nature, not subject to Sixth Amendment rights); *United States v. 6109 Brugg Rd*, 886 F.2d 618 (3rd Cir. 1989), reh, en banc, den, 890 F.2d 659, (No Sixth Amendment right to confront witnesses in a forfeiture proceeding under the Comprehensive Crime Control Act of 1984); *Schultz v. Wellman*, 717 F.2d 301 (6th Cir. 1983), (No Sixth Amendment Right applies to the National Guard administrative discharge proceedings for which the grounds were "knowingly keeping a vehicle which is used for the keeping of a controlled substance (for which the criminal penalty could be up to two years of incarceration)).

Both parties acknowledge that deposing a party's attorney should be allowed in limited circumstances as stated in *Shelton v. American Mortors Corp.*, 805 F.2d 1323, 1327 (8th Cir. 1986). The *Shelton* court held that the circumstances should be limited and require a showing by the party seeking the deposition that: (1) no other means exist to obtain the information than to depose opposing counsel; (2) the information sought is relevant and nonprivileged; and (3) the information is crucial to the preparation of the case.

The Defendant appears to be mainly concerned with information that the UST has provided, if any, to various governmental entities, including Sacramento County Sheriff's Department, Sacramento County District Attorney's Office, any United States government agencies, any California State Government Agencies, and the State Bar of California. However, Defendant has not shown and it does not appear that any of the information sought from these various entities would be relevant to the subject matter involved in this action as required by Federal Rule of Civil Procedure

26(b), as incorporated by Federal Rule of Bankruptcy Procedure 7026. The court has previously addressed these contentions in the Contested Matter, granting the protective order. Attempting to conduct discovery concerning third-party federal, state and local governmental entities and the State Bar is not part of this Adversary Proceeding. To the extent that any such documents or communications occurred with respect to this Adversary Proceeding, the disclosure would fall under the other subpoena areas. The Defendant cannot conduct discovery as to other possible actions under the guise of the present Adversary Proceeding for injunctive relief.

Defendant has not provided sufficient explanation for the purpose of this information and how it is relevant to his defense *in this proceeding*. Defendant has not shown that this information is crucial to the preparation of *this case*. It may well be information relevant and crucial to some possible criminal prosecution, but that is not *this case*.

However, the UST is not insulated from having its deposition taken merely because it has its attorney as the most knowledgeable person concerning the documents which have been requested to be produced. This court has previously ordered that all depositions shall be conducted in Courtroom 33 of this court so that any objections to questions and discovery disputes can and will be quickly resolved by the court.

The UST is entitled to a protective order, in the same manner as was granted in the Contested Matter, limiting the Defendant's large ranging fishing expedition as to what other state and federal agencies and associations may be doing.

The court grants the protective order, with the scope of the deposition of the UST's most knowledgeable person limited to the following documents and areas identified in the subpoena:

1. Any and all documents upon which you rely in support any of the allegations in this adversary proceeding.
2. Any and all documents upon which the U.S. Trustee or any of their representatives rely in support of the allegations in this adversary proceeding.
3. Any and all documents that indicated when U.S. Trustee or any of their representatives received any and all the documents being produced.
4. Any and all documents that you reviewed in preparation for your deposition.
5. Protective Order Granted for this area.
6. Protective Order Granted for this area.
7. Protective Order Granted for this area.
8. Protective Order Granted for this area.

9. Protective Order Granted for this area.
10. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Stacey Powers, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
11. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Alena Tsiberman, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
12. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Tatyana Chernyetsky, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
13. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Julia Young, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.

The court is also concerned that Defendant was served with a request for production of documents and a notice of deposition before the subpoenas were sent, and Defendant did not appear or produce the requested documents. Defendant cannot demand discovery when he is not in compliance himself. The UST and Defendant may properly address any discovery disputes or non-compliance to the extent they deem it appropriate.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Protective Order filed by U.S. Trustee having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion for Protective Order is granted and the deposition of the "Custodian of Records" and "Person Most Knowledgeable" presented by the U.S. Trustee may be conducted with respect to the following areas (identified using the same numbering system used by the Defendant) as set forth in the subpoenas:

1. Any and all documents upon which you rely in support any of the allegations in this adversary proceeding.

2. Any and all documents upon which the U.S. Trustee or any of their representatives rely in support of the allegations in this adversary proceeding.
3. Any and all documents that indicated when U.S. Trustee or any of their representatives received any and all the documents being produced.
4. Any and all documents that you reviewed in preparation for your deposition.
5. Protective Order Granted for this area.
6. Protective Order Granted for this area.
7. Protective Order Granted for this area.
8. Protective Order Granted for this area.
9. Protective Order Granted for this area.
10. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Stacey Powers, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
11. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Alena Tsiberman, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
12. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Tatyana Chernyetsky, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.
13. Any and all documents, correspondences or communications (as defined in the definition pages herein) between you and Julia Young, regarding David L. Bryant and Winchester Consulting, LLC or any party or organization that have any participation in the referenced proceeding.